

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 15, 2006**

**REGULAR MEETING**

**9:00 A.M.**

**NOVEMBER 15, 2006**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Paul Biane, Chairman</b>	<b>Mark Nuaimi</b>
	<b>Bob Colven, Vice Chairman</b>	<b>Richard P. Pearson</b>
	<b>Kimberly Cox</b>	<b>A. R. "Tony" Sedano, Alternate</b>
	<b>James V. Curatalo, Alternate</b>	<b>Diane Williams, Alternate</b>
	<b>Dennis Hansberger</b>	

**STAFF:**

**Kathleen Rollings-McDonald, Executive Officer**  
**Clark H. Alsop, Legal Counsel**  
**Samuel Martinez, LAFCO Analyst**  
**Michael Tuerpe, LAFCO Analyst**  
**Debby Chamberlin, Clerk to the Commission**

**ABSENT:**

**COMMISSIONERS:**

**Josie Gonzales, Alternate**  
**Larry McCallon**

**8:45 A.M. – CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION –**  
Conference Room adjacent to the San Bernardino City Council Chambers located at 300 North D Street,  
First Floor, San Bernardino.

Personnel (Government Code Section 54957):  
Employee Evaluation – Executive Officer

**9:00 A.M. – RECONVENE TO REGULAR MEETING OF THE LOCAL AGENCY FORMATION  
COMMISSION – San Bernardino City Council Chambers.**

Chairman Biane calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Chairman Biane requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

Chairman Biane states that he will abstain from voting on Item No. 6 on the Consent Calendar and on Item No. 10. He says that Legal Counsel Clark Alsop will address some issues related to Item No. 8 and whether or not some Commissioners are conflicted out from voting.

Mr. Alsop states that Item 8 is a continued hearing on a reorganization involving the annexation of four islands to the City of Fontana. He says the issue in terms of conflict involves both this reorganization and its interrelationship with the proposed incorporation of the community of Bloomington. He explains that the Fair Political Practices Commission (FPPC) advised this Commission sometime back that annexations and detachments are permits or entitlements for use, which he says means that any Commissioner receiving campaign contributions totaling more than \$250 is prohibited from voting or

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participating in the annexation discussion. He says, however, that the FPPC said that an incorporation is not a permit or entitlement for use so the disqualification on campaign contributions does not apply to incorporations. So regarding Item No. 8, Mr. Alsop says that any Commissioner that is able to participate in the hearing on the reorganization can participate in that discussion and any relating to the incorporation. He says any Commissioner who is disqualified from the reorganization must leave for that proposal but could come back if there is further discussion about the incorporation.

Chairman Biane notes that the Commissioners this morning have been presented with a copy of the action taken last night by the Fontana City Council to move forward with the hearing related only to Island No. 27 and to defer consideration of the other three islands. He points out that a Commissioner may be conflicted on one of the other three islands but not on Island No. 27.

Mr. Alsop announces that the Commission met in Closed Session this morning as listed on the agenda and discussed the Executive Officer's evaluation. He says no reportable action was taken.

Commissioner Nuaimi announces that he will abstain from voting on Item No. 8, not because of a conflict but to eliminate any perception of conflict since the City of Fontana is involved. Commissioner Hansberger announces that he will abstain from voting on Items Nos. 8, 11 and 12.

**APPROVAL OF MINUTES FOR REGULAR MEETING OF OCTOBER 18, 2006**

Chairman Biane calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Pearson moves approval of the minutes as presented, seconded by Commissioner Cox. Chairman Biane calls for objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: McCallon.

**CONSENT ITEMS**

LAFCO considers the items listed under its consent calendar. Chairman Biane states that the consent calendar consists of:

- (1) approval of the Executive Officer's expense report;
- (2) approval of payments as reconciled for the month of October 2006 and noting cash receipts;
- (3) consideration of LAFCO SC#296-City of Redlands OSC No. 06-03 for Water Service;
- (4) consideration of LAFCO SC#297-City of Redlands OSC No. 06-02 for Water Service; and
- (5) consideration of LAFCO SC#298-City of Redlands OSC No. 06-28 for Water and Sewer Service

A Visa Justification for the Executive Officer's expense report, as well as staff reports outlining the staff recommendations for the reconciled payments and LAFCOs SC#296, SC#297 and SC#298, have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by its reference herein. The Notice of Hearing for the three service contracts was advertised as required by law through publication in The Sun and the Redlands Daily Facts, newspapers of general circulation in the area and individual mailed notice was provided to affected and interested agencies, County departments and those agencies and individuals requesting mailed notice.

Chairman Biane asks if there is anyone present wishing to discuss any of the consent calendar items. There is no one.

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Commissioner Pearson moves approval of the staff recommendations for the consent calendar items, seconded by Commissioner Colven. Chairman Biane calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Biane (with an abstention on Item No. 6), Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: Biane (on Item No. 6 only). Absent: McCallon.

**CONTINUED ITEMS:**

**CONTINUED FROM OCTOBER 18, 2006 – CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF SAN BERNARDINO FOR THE SAN BERNARDINO GENERAL PLAN UPDATE AND ASSOCIATED SPECIFIC PLANS (SCH NO. 2004111132), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3050; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3050 – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 360 (ARROWHEAD SPRINGS SPECIFIC PLAN AREA) – APPROVE STAFF RECOMMENDATION TO CONTINUE TO JANUARY 17, 2007**

LAFCO conducts a public hearing continued from October 18, 2006, to consider a reorganization submitted by the City of San Bernardino (hereinafter referred to as “the City”), including annexation of two areas to address territory included within the Arrowhead Springs Specific Plan area not currently a part of the City. Notice of the October 18, 2006 hearing was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area, and individual mailed notice was provided to landowners and registered voters within and surrounding the reorganization area pursuant to State law and Commission policy. Individual mailed notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Commissioner Nuaimi states that there has been a request for a continuance of this proposal by the City. A copy of the staff report is on file in the LAFCO office and is made a part of the record by its reference herein. Commissioner Nuaimi moves approval of staff recommendation to continue LAFCO 3050 to the January 17, 2007 hearing, seconded by Commissioner Cox. Chairman Biane calls for objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: McCallon.

Executive Officer Kathleen Rollings-McDonald introduces Becky Lowery who is working in the staff office as Receptionist and assisting staff as required.

**CONTINUED FROM AUGUST 16, 2006 – CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3048A; AND (2) LAFCO 3048A – REORGANIZATION TO INCLUDE CITY OF FONTANA ANNEXATION NO. 168 AND DETACHMENT FROM BLOOMINGTON RECREATION AND PARK DISTRICT (FOUR BLOOMINGTON ISLANDS) – MODIFIED TO EXCLUDE ISLANDS 4, 5 AND 26, WHICH ARE ESTABLISHED AS SEPARATE PROPOSAL KNOWN AS LAFCO 3048A-1 AND CONTINUED TO MAY 16, 2007; STAFF RECOMMENDATIONS 1 THROUGH 5 APPROVED FOR LAFCO 3048A (ISLAND 27); STAFF RECOMMENDATION APPROVED REQUIRING BIC TO SUBMIT COMPLETE APPLICATION FOR LAFCO 3075 (INCORPORATION OF CITY OF BLOOMINGTON) AND FILING FEES TOTALING \$109,990 BY FEBRUARY 28, 2007**

(It is noted that Commissioners Hansberger and Nuaimi have announced they will abstain on this item and they leave the hearing at 9:07 a.m.)

LAFCO conducts a hearing continued from August 16, 2006, to consider a reorganization to include the annexation of four islands totaling approximately 289+/- acres located in the southeastern portion of the City of Fontana’s sphere of influence associated with the community of Bloomington. Notice of the August 16 hearing was advertised as required by law through publication in The Sun and the Fontana

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Herald News, newspapers of circulation in the area, and individual mailed notice was provided to landowners and registered voters within and surrounding the reorganization area pursuant to State law and Commission policy. Individual mailed notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states this proposal was continued from August to allow for completion of the registered voter petition circulation and review process for the Bloomington incorporation. As outlined in the staff report, she says that on September 25, the Bloomington Incorporation Commission (hereinafter referred to as "BIC") submitted a petition for incorporation; that it was reviewed by the Registrar of Voters Office; and that the original petition was determined to be insufficient. She says BIC circulated a supplemental petition which was also reviewed by the Registrar of Voters Office, which provided a response on November 8 that the combined original and supplemental petitions contained a sufficient number of valid signatures to initiate incorporation. She says staff then certified the petition to initiate the incorporation as valid.

Ms. McDonald says that today the Commission will consider whether to proceed with annexation of the four islands or further defer that consideration. She reports that the City Council of the City of Fontana (hereinafter referred to as "the City") took an action last night requesting that the Commission continue consideration of Islands 4, 5 and 26 to allow the Bloomington process to move forward, but requested that Island 27 be reviewed and considered for annexation today. She notes that a copy of the City Council's letter requesting this action and a map of Island 27 outlining the levels of support have been presented to the Commission today, copies of which are on file in the LAFCO office and are made a part of the record by reference herein.

Ms. McDonald says the staff report identifies the process to be considered today. She says the Commission's Policy #5 indicates that the Commission chooses to look at existing agencies for service delivery over the creation of a new service entity. She says staff also looked at the potential for two conflicting proposals—the reorganization versus the incorporation. She points out that the reorganization was the first proposal filed and says that according to Government Code Section 56655, unless the Commission determines otherwise, the reorganization is the first proposal to be considered.

Ms. McDonald says that nothing related to the findings and determinations outlined in the staff report for the August 16 hearing has changed in the interim, so she says the Commission must first determine whether it will accept the City's position and defer consideration of three islands and consider annexation of Island 27. She says staff believes the Commission can clearly make the determinations required in Government Code Section 56375.3 for Island 27. She says it is substantially surrounded, being 67% surrounded by existing City boundaries and is within the City's sphere of influence; the area is developed or developing; the area does not contain prime agricultural land; there is the presence of improvements in the area; the area will benefit from the annexation; the City has conducted an extensive outreach program; and it is not part of a County Redevelopment Area. Therefore, she says the Commission is required to approve the annexation and approve it without the ability of landowner or registered voter protest. Ms. McDonald says she believes that the most appropriate action, given the City's letter, is to determine whether the Commission wants to proceed with annexation of all four islands or approve the City's request to defer the three islands and discuss Island 27.

Ms. McDonald states that if the Commission proposes to defer consideration of the islands, the staff recommendation outlined in the staff report is very clear. She says BIC and the community need to understand their obligation if they are allowed to move forward with the incorporation application. She says the staff report on page five outlines what is required and includes forms and materials required for processing the application, including the preliminary Feasibility Study, maps and a legal description. She reports that staff is also recommending that BIC be required to submit payment of all fees and deposits for application processing. She says the existing Fee Schedule indicates that a \$15,000 deposit is required for the Comprehensive Fiscal Analysis (CFA) and a \$750 deposit is required for environmental review. She explains that staff has estimated the cost for the CFA to be approximately \$80,000 and that the environmental review is estimated to be approximately \$20,000. She says staff is requesting that

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deposits of those estimated costs be required, along with the standard incorporation fee, Legal Counsel deposit and a deposit for publication of a display ad, totaling \$109,990, and that all application forms and fees be submitted to the Commission no later than February 28, 2007.

Chairman Biane asks for confirmation that staff is looking for a vote on whether to defer consideration of all four islands or to consider only Island 27, as requested by the City, and whether the Commission supports staff recommendation regarding the fees and timeline for submitting the necessary paperwork and fees. Ms. McDonald states that is correct, noting that the original staff recommendation was to approve annexation of all four islands. Chairman Biane asks Legal Counsel Clark Alsop whether the Commission can consider the City's request, since his understanding is that the Commission does not have a choice to defer this consideration. Mr. Alsop explains that the island annexations are ministerial in that if the islands meet the criteria outlined in law, the Commission cannot deny their annexation and must approve them or can continue their consideration for a certain period of time if there is some good reason to do so. He points out that if the Bill extending the island annexation provisions had not been signed, those provisions would have died at the end of this year; that a continuance would have meant denial, so the Commission could not have continued this proposal. However, he says that since the Bill passed and extended the provisions until 2014, the Commission has the ability to continue this reorganization for good cause. He adds that in his judgment, the Commission does not have the ability to deny the reorganization.

Chairman Biane asks if there are any more questions. There being none, he opens the public hearing.

Eric Davenport, Chairman of BIC, states that the people in Island 27 are the friends and neighbors of Bloomington; that the island is part of the original incorporation proposal submitted; and that they are not prepared to leave that island behind. Mr. Davenport says that one of the reasons they decided to incorporate is so they will not be pushed and shoved around and he says they are prepared to do whatever it takes to keep the island within the incorporation boundaries. He requests that the Commission defer the reorganization for good cause, stating they met the burden of obligation by getting the necessary signatures and they should be allowed to move on to the next step unhampered. He thanks the City for trying to come up with this solution, but he says it is unacceptable.

Lynda Gonzalez, who lives near Island 27, speaks in opposition and says the City took this action last night without proper notification to other property owners, who feel disrespected by the City. She says she read about the action to be taken when she picked up her copy of The Sun at 5 p.m. last night and saw an article written by Andrew Silva. She asks that BIC be allowed to continue with its incorporation effort. Commissioner Cox asks Ms. Gonzales where her property is. Ms. Gonzales says she does not live in the island but is within 300 feet of, and directly across the street from, the project shown on the map.

Bobbie Sue Tucker, speaking on behalf of her mother Robbie Lee McCleal who owns a parcel on Tamarind Avenue in Bloomington, says her mother, who is in frail health, has lived on her property for 42 years and wishes to stay there her entire life since to move would be a severe hardship. Ms. Tucker says that the homeowners in Island 27 do not wish to be annexed because that will increase their taxes and will not improve their quality of life. She says if the area is annexed, it will be rezoned which will jeopardize the well being of her mother and other homeowners who are unwilling to sell out to the investors who only offer pennies on the dollar of the property value. She says the driving force behind the annexation of Island 27 is greed and not concern for current homeowners.

Juanita Ruiz, a resident in Island 27, says she serves on the Bloomington Municipal Advisory Council (MAC) and was appointed by Supervisor Gonzales to serve the residents of Bloomington. Ms. Ruiz says she attended the meeting at the City last night but knew about only because an acquaintance called and told her about it. She says it is odd that the only two people there were the two property owners who want to be annexed. She says that of the five parcels in the island, three of the five property owners do not want to be annexed so says she does not understand how Ken Hunt, City Manager, could say last night that 70% or better of the residents want to be annexed. She says she is also concerned because she has been approached by developers who have told her that annexation is a "done deal". She asks

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that the Commission not approve annexation of Island 27 and give incorporation a chance. She says she will not be allowed to continue serving on the Bloomington MAC if her property is annexed.

Jim Panting, who owns four parcels in Island 27, speaks in favor of its annexation. He says his neighbor immediately adjacent to the south owns an additional four acres and that together they own over 70% of the property in question. He says that he realizes that change is hard for people, but he points out that change has already happened in this area because the Empire Center is immediately adjacent and contiguous to his property and right next door are three, million square foot facilities that are already built and in use. He says annexation makes prudent sense; that there are public safety issues because there cannot be residential uses right next to all these industrial concerns. He strongly recommends that the Commission approve annexation of Island 27.

Ron Stumpf, a resident of Bloomington for over 30 years, states that people are proud to be Bloomington residents; they do not want to become part of Fontana and have justified that by getting the required signatures for the proposed incorporation. He says it seems like everyone tries to take the knees out from under the Bloomington residents and that big money comes in and tries to overrule their rural town. He asks that the Commission give the community a chance to stand on its own feet and delay annexation until the community comes up with the necessary money.

Chairman Biane asks if there is anyone else wishing to speak on this item. There is no one.

Commissioner Cox comments that one suggestion is to defer annexation until February to allow BIC to come up with the required deposits. Ms. McDonald says that staff's recommendation was that if the Commission chose to defer annexation of the islands, the proposal be continued to the May hearing. She says that staff is recommending that BIC be given until February 28 to submit the necessary paperwork and deposits, and that a deferral to May would allow staff the months of March and April to evaluate the application and begin the incorporation process. She says that as Mr. Alsop indicated earlier, it is his and staff's opinion that the Commission has no legal authority to deny these island annexations, so a deferral is simply delaying the dilemma. She says the City is now recommending deferral of three islands to allow the incorporation process to move forward, but has requested that annexation of Island 27 be approved, which she says is now staff's recommendation.

Commissioner Pearson notes that a previous speaker commented that there are only five parcels in Island 27, but he says he counts six on the map from the City. Ms. McDonald responds that there are nine parcels in Island 27, many of which are owned by the same company. Commissioner Pearson says the bigger issue is whether the Bloomington residents are willing to move ahead with their efforts, noting that the petition drive was a major effort and, when the signatures were insufficient, BIC went back out and accomplished getting the required number of signatures. He says he hopes the community will appreciate the assistance Fontana is attempting to provide and commends the City for being willing to make concessions. He notes that Ms. McDonald has outlined that even though the City is willing to back off from annexing the other three islands for the time being, the issue of annexation will not go away, unless the City withdraws its application. He says he would not deny the annexation since there is no legal basis for doing so. He discusses that the island annexation provisions have been extended and says they have been playing the continuation game and are permitted to do so. He says that if Mr. Davenport, on behalf of BIC, is willing to say that they are ready to meet the next hurdle, which is to provide all the paperwork and required deposits by February 28, then perhaps the Commission might consider continuing the proposal to see if that next step is met.

Mr. Davenport says that money is no object; they will pay the fees and fill out the paperwork and have it in by February 28. Commissioner Pearson says it is important to get on the record that BIC is willing to make that step and that they recognize what has to be done, which is not simple. He points out that even if they complete all that, a fiscal analysis has to be done, which he says was the "back breaker" for the communities of Menifee and Lake Arrowhead Woods. Mr. Davenport responds that they will take one step at a time; he says they are fiscally sound and will prove that in the long run. He says they understand that the application and fees are all part of the next step, which they are prepared to take. He says they have worked hard to get this far and are not "tucking tail and running" now.

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Commissioner Colven comments that he is concerned about the fee issue and says he hopes that BIC understands that if the studies go forward and the fees are not available, then the money will have to come from the many entities that fund LAFCO. He also says there is no guarantee that the studies performed will be to BIC's liking and there are many things to consider beyond the money issue.

Commissioner Biane commends BIC and the Bloomington residents for getting the qualified signatures. However, he says that he really believes the position the City is proposing today is one of compromise that takes into consideration BIC and the residents and he is willing to support the City's recommendation to provide for a logical boundary.

Commissioner Sedano says his response to Mr. Davenport, when he says that money is no problem, is that he show that BIC has the money to move forward. He says he does not mind enabling somebody to do something, but he does mind being called an enabler if it is not going to go the right way. He says he feels that the community has the greatest heart and the greatest desire, but it does not look like they can incorporate because they do not have the financial base in that area. He says if he could see a fiscal report today that shows they are going to make it, he would encourage the Commissioners to go along with BIC; however, he says they do not have that paperwork and they are not going to make it. He says he thinks the City is doing a great thing by offering to defer three of the islands but going ahead to straighten out the boundary line. He says five or six of nine people want to be annexed, which is commendable. He says he is glad he does not have to vote today.

Chairman Biane says he does not want there to be any misunderstanding about any of the Commissioners' comments that have been made. He says they think the Bloomington residents are great and can make the next step toward incorporation; but he says the Commissioners are worried about what the studies will say as far as whether the city will be successful and financially feasible.

Mr. Davenport says the money is there. He says that if Calimesa can run a city on \$3.2 million, which was its budget for 2004/05, how stupid would they have to be not to be able to run a city of Bloomington, which has much more money than that available and is smaller land wise than Calimesa. He says they have seen what Calimesa has done with very little, and says he Bloomington has more money available. He discusses that there are things that can be done to mitigate any losses of income to the Cities of Fontana and Rialto, should there be any. He says he is very good with numbers and would not be standing here today if he did not think they could do it. He says the numbers pan out; that it will not be easy, but that no new business startup is; and that they will succeed because failure is not an option.

Commissioner Williams says that she concurs with Chairman Biane that by doing what the City has requested and approving annexation of Island 27, they would be cleaning up the boundary. She says that as far as Bloomington becoming a city, she thinks they can do it. She notes that Rancho Cucamonga was told that it was financially impossible for it to become a city, or it would be very tough, and she says Rancho Cucamonga has proven that not to be true. She says a lot of small cities have made it; that America is made up of lots of heart and lots of good people, and that sometimes they just have to be given a chance and the benefit of the doubt. She says if they come up short on their fiscal opportunities, it will be up to them to come up with ways to make it work. She says she would support the deferral if it is possible to separate out Island 27.

Mr. Alsop says the Commission has the option to approve what the City is requesting, which is to continue consideration of Islands 4, 5 and 26 and approve annexation of Island 27. He says that is a policy decision for the Commission.

Commissioner Cox says that the City has been very supportive of letting BIC move forward with its process. She asks that someone from the City comment on whether there is any expediency for approving Island 27 or whether the City, given the comments heard today, would support deferring this proposal to February to give BIC one last chance. She says the Commission has been very forthright with BIC by letting them know this is an uphill battle and, in all probability, incorporation will not prove successful when the studies are completed.

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Cecilia Lopez-Henderson, Annexation Program Coordinator for the City, says there is a question of expedience. She states that as the map provided by the City points out, there is a majority of landowners who wish to be annexed. She says the Sierra Business Park owns one parcel of about five acres that is on the south end of Island 27 and says this parcel is to be developed in conjunction with a pending project at the City in the Sierra Business Park. She says it is critical that Island 27 be annexed and, hopefully, it will be approved today.

Commissioner Williams moves, seconded by Commissioner Cox, to defer consideration of annexation of Islands 4, 5 and 26 to the May 16, 2007 hearing and that Island 27 be separated out and approved. Mr. Alsop clarifies that the motion is to approve staff recommendations 1, 2, 3, 4 and 5 in the staff report, as revised to include only Island 27, and to defer consideration of Islands 4, 5 and 26 to May.

Chairman Biane calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Williams. Noes: Pearson. Abstain: Hansberger and Nuaimi. Absent: McCallon.

Chairman Biane says the last question relates to the schedule of the incorporation effort proposed by staff. Ms. McDonald says the balance of the question relates to staff's recommendation requiring BIC to submit by February 28, 2007, the required complete application for LAFCO 3075 and the filing fees and deposits for processing the incorporation as outlined in the staff report.

Commissioner Cox moves approval of staff recommendation, seconded by Commissioner Williams. Chairman Biane calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Pearson, Williams. Noes: None. Abstain: Hansberger and Nuaimi. Absent: McCallon.

(It is noted that Commissioners Hansberger and Nuaimi return to the hearing at 9:55 a.m. Chairman Biane announces that he is abstaining on Item 10, but needs to leave now to make a phone call. He asks that Vice Chairman Colven assume the Chair.)

**DISCUSSION ITEMS**

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3065; AND (2) LAFCO 3065 – CITY OF MONTCLAIR ANNEXATION NO. 27 (WEST ISLAND) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider the annexation of a substantially-surrounded unincorporated island to the City of Montclair (hereinafter "the City"). The annexation, as initiated by the City, includes approximately 42.8+/- acres, generally bordered by State Street/Metrolink Line (existing City boundary) on the north, parcel lines west of Ramona Avenue (existing City boundary) on the east, Mission Boulevard (a portion being the existing City boundary) on the south, and the logical extension of Pipeline Avenue (existing City boundary) on the west. Notice of this hearing has been advertised as required by law through publication in The Sun, and the Inland Valley Daily News, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and to landowners and registered voters within and surrounding the annexation area pursuant to State law and Commission policy.

LAFCO Analyst Michael Tuerpe presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Tuerpe states that in staff's view, this proposal is a ministerial action for the Commission based on the provisions within Government Code Sections 56375(a), 56375.3, and 56375.4, as outlined in the staff report. He discusses the basic determinations that can be made for this island which include: 1) the area is 42.8+/- acres, less than the 150 acre threshold, and constitutes the entire island; 2) the area is 94% surrounded by the existing City of Montclair boundaries; 3) the area is substantially developed or developing; 4) there is no prime agricultural land within this area as such is defined by LAFCO statutes; 5) the area will benefit from annexation and the area currently receives fire protection and paramedic service from the City Fire



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Department and a 74-space mobilehome park receives City sewer service through an out-of-agency service agreement; and 6) the island existed in its current configuration on January 1, 2000. Mr. Tuerpe discusses that regarding the provisions of the Commission's additional policies related to island annexations: 1) the area has been determined to be substantially surrounded, being 94% surrounded by the City's existing boundaries; 2) this area is within the existing Mission Boulevard Joint Redevelopment Project Area and the County Board of Supervisors and the County Redevelopment Agency have consented to the annexation; and 3) the City conducted an outreach meeting prior to adopting its resolution of initiation. Mr. Tuerpe says that, based on this information, it is staff's position that these mandatory determinations are clear and the Commission is required to approve the proposal as submitted and approve it without the ability of landowners and registered voters to protest.

Mr. Tuerpe discusses land use issues, reporting that the City's pre-zoning designations for the area are Limited Manufacturing and Business Park. He says the land use determinations between the City and County are generally compatible and do not allow for residential uses. However, he says there is a 74-space mobilehome park and some scattered residences in the area. He explains that the City addressed this issue during its public outreach program and in correspondence with LAFCO and assured these residents that "land uses and improvements with legal, non-conforming status would be allowed to remain...." He notes that the City intends to accept the residential units but he says the City Municipal Code will not allow for any construction of additions (or enlargements) to such dwellings.

Mr. Tuerpe discusses the City's plan for serving the area, noting that there will be no change to water service; there will be no effect on existing septic system users unless there is a system failure; law enforcement will shift from the County Sheriff's Department to the City Police Department; and that fire protection and paramedic services are currently provided to the area by the City Fire Department. He says that businesses will be subject to an annual business license fee. He points out that since no election is possible under the island annexation provisions, a condition of approval has been included in the draft resolution indicating that the City's Utility User Tax will not be extended to the annexation area.

Mr. Tuerpe says that of special note is the fact that there is a recreational vehicle sales and rental business in the island area which, at the time of publication of the staff report, had an application for a Conditional Use Permit (CUP) in process through the County for which approval had not been issued due to the lack of the required fees from the business owner. He reports that the business owner has now paid the fees to the County and the County issued the CUP. He says that Attachment No. 6 to the staff report is the City's letter which indicates that if the applicant settles the outstanding account with the County prior to issuance of the Certificate of Completion, allowing the County to issue the CUP, the City will accept the land use subject to the conditions imposed by the County. The staff recommendation is outlined on pages one and two of the staff report and includes that the Commission: 1) adopt the Statutory Exemption and direct the Clerk to file a Notice of Exemption; 2) approve LAFCO 3065 as an island annexation as defined in Government Code Section 56375.3, with the listed terms and conditions; 3) waive the protest proceedings, as authorized by Government Code Section 56375.3; and 4) adopt LAFCO Resolution No. 2947 setting forth the Commission's findings and determinations concerning this proposal.

Commissioner Nuaimi asks whether this is the last island expected to come from the City or whether there will be future ones. Mr. Tuerpe says that no other application has been submitted at this time, but he says Mr. Lustro will respond to that.

Vice Chairman Colven opens the public hearing.

Steve Lustro, Montclair's City Planner, says it is up to the City Council to make that call. He says that with the assistance of LAFCO staff, two other potential islands have been identified that meet the criteria of Government Code Section 56375.3. Mr. Lustro says those islands have been discussed with the City Council in the past six months, but he says the Council chose not to pursue those islands at the present time. However, he says he does not want to speak about what the Council might want to do in the future, since the island annexation law has been extended.

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Vice Chairman Colven asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Cox. Vice Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane and McCallon.

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3067; AND (2) LAFCO 3067 – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (SIX ISLANDS) – CONTINUE TO FEBRUARY 21, 2007, WITH STAFF REQUESTED TO RETURN WITH INFORMATION ON POSSIBLE MODIFICATIONS TO ISLANDS**

(It is noted that Chairman Biane announced that he will abstain from voting on this item and he left the hearing earlier.)

LAFCO conducts a public hearing to consider a reorganization initiated by the City of San Bernardino (hereinafter referred to as "the City") to include annexation of six substantially-surrounded unincorporated islands of territory (identified as Areas 1 through 6) located in the northeastern sphere of influence of the City. The reorganization, when originally initiated by the City, encompassed a total of approximately 97+/- acres. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and to landowners and registered voters within and surrounding the reorganization area pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. She states that this proposal was initiated by the City Council at the direct request of the Commission, as discussed at its hearing in April 2006 regarding a request for the Commission to override its environmental litigation policy for LAFCO 3050 related to the annexation of the Arrowhead Springs Specific Plan area. She shows a map of the six islands being considered today, outlined in red on the overhead display and on page three of the staff report, stating that they are divided into northern and southern regions. She points out that the five additional islands the City has committed to initiate over a period of time are outlined in yellow and she reports that the City has taken an official action indicating it will initiate three additional islands by the end of January 2007 and two additional islands by January 2008. She discusses that the City committed to addressing the 13 islands which met the island annexation criteria. She explains that the Del Rosa Island (LAFCO 3049) was completed in June; that six are being considered today; that five are to be initiated by the City; and that the 13<sup>th</sup> island, located along Third Street, has not been included in these discussions due to concerns related to water and the City's Federal Court Consent Decree governing its containment of a contaminant plume. She says the City has indicated it will be working with the City of Riverside, which has well facilities in that area, and the residents to address annexation of that area later under the standard annexation process.

Ms. McDonald says that as outlined in the staff report, staff believes that these six islands clearly meet the criteria established by State law and Commission policy which require the Commission to approve the annexation of islands of unincorporated territory and to approve the annexation without the ability of protest. She discusses that as the staff's review process began, the proposal was divided into northern and southern regions, with Areas 1, 2 and 3 in the northern region, and Areas 4, 5 and 6 in the southern region. She explains that staff has expanded Area 1 to include territory to the westerly boundary of the Flood Control Channel so that area now contains 84+/- acres. She says Area 2 is 10+/- acres and Area 3 is 6+/- acres. She reports that in the southern region, staff expanded Area 4 to include Flood Control properties to the south to provide a clean delineation between City and County responsibilities in that area, so Area 4 now encompasses 21+/- acres. She says Area 5 is 8+/- acres and that Area 6 is 2+/- acres. Ms. McDonald says these six islands are all substantially surrounded; have been in the City's sphere of influence for a number of years; are developed or developing; contain no prime agricultural

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land; and will benefit and have benefited from reorganization because they currently receive fire protection and paramedic services from the City through a contract with the County. She says the City conducted an outreach program for all the areas. She says that none of the areas are part of a County Redevelopment Area, but she says that Areas 4, 5 and 6 are part of the Inland Valley Development Authority. She presents a "flyover" of the areas.

Commissioner Hansberger notes that Areas 4, 5 and 6 are part of a much larger island and asks what the size of the larger island is and what the acreage would be if the island were taken from Pacific Street north. Ms. McDonald says she believes the acreage of the larger island is in excess of 350 acres. She says she does not know the acreage of the island if it were taken from Pacific Street north but can get an answer to those questions. Commissioner Hansberger asks why the City is taking bits and pieces rather than initiating annexation for a more complete serviceable area. Ms. McDonald responds that the initiation of those areas related to the islands the City felt comfortable annexing under the existing Commission policies, State law and the City Council's position. She notes that the City Council does not adhere to the Commission's 52% criteria and is comfortable only with islands that are 75% or greater surrounded. Commissioner Nuaimi points out that if they took in the area from Del Rosa Avenue east, that is well in excess of 75% surrounded and is probably under 150 acres. Commissioner Hansberger comments that the access points to these areas seem to come, to the largest extent, through the unincorporated island. He says it appears that attaching them to something such as Pacific Street, Del Rosa, Highland or Sterling Avenues would give an appropriate access for police and fire and would create a more logical boundary. Discussion follows, with Ms. McDonald stating that some of the boundaries could be expanded; but she says she does not know what the acreage configurations would be so she cannot say if they would qualify to be annexed under the island annexation provisions. She says if the Commission would like to know what the acreage configurations are and the possibilities for expanding the existing islands, consideration of a portion of the islands could be continued to January and staff could return with information regarding the acreages of the areas and whether they would qualify under the island provisions.

Ms. McDonald states that the staff report outlines the existing land uses and rezoning designations to be applied upon annexation. She summarizes the City's plan for providing services to the areas, as outlined in the staff report. She says that staff supports approval of this reorganization and does not believe the Commission has the ability to deny the annexations. She says if the Commission wishes to look at other boundary alternatives, it can continue this hearing to January with direction to staff to return with further information related to the areas. She notes that a Statutory Exemption has been recommended as appropriate by the Commission's Environmental Consultant Tom Dodson and Associates and notes that a condition has been included in the draft resolution indicating that the City's utility tax will not be extended to these areas. She says the Commission has been presented with a letter today from Alan Nolan objecting to annexation, but she says his comments relate to a future annexation and not one of these six islands being considered today. Ms. McDonald says the staff recommendation is outlined on pages one and two of the staff report and includes that the Commission: 1) adopt the Statutory Exemption and direct the Clerk to file a Notice of Exemption; 2) modify Islands 1 and 4 to expand their boundaries to include the Flood Control Channels; 3) approve LAFCO 3067 as island annexations with the listed conditions; 4) waive the protest proceedings as required by Government Code Section 56375.3; and 5) adopt LAFCO Resolution No. 2948 setting forth the Commission's findings and determinations.

Commissioner Hansberger asks what the total acreage is for the island of which Area 1 is a part. Ms. McDonald responds that she estimates it at about 220 acres. She says that Area 1 as reviewed by the County Surveyor and as modified to include the Flood Control property now contains 84 acres, noting that the map attached to the staff report on page 2 of 3 lists the acreage before the expansion. Commissioner Nuaimi discusses that expanding Area 1 to Sterling Avenue to take in the triangle piece northwest of the Flood Control Channel would keep the island under 150 acres and bring in some additional neighborhoods, maximizing the acreage of islands, which he says is one of the Commission's goals. Ms. McDonald responds that if the Commission is more comfortable with expanding the areas to take in additional territory, that will require recalculation of the acreages and renotification to the people in the areas. She points out that one of the additional islands to be initiated by the City is the one that is south of Marshall Blvd. and east of Del Rosa Avenue. She says the only way to comprehensively

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address service delivery in this area would be to take the entire island, which cannot be done under the existing island annexation provisions.

Commissioner Sedano says that what the City has initiated may not be perfect, but it is a step in the right direction, because the City is moving forward and cleaning up a number of its islands. He encourages the Commission to approve staff recommendation as presented. Commissioner Hansberger says it has been proven over the past 30 years in dealing with this issue that service to these areas when they are broken up as they are is less than desirable. He says he thinks it is very desirable to get these areas under a common jurisdiction, which is why he urged in the past that a municipal reorganization be undertaken to clarify and straighten up the boundaries. He says in this instance there seems to be no other choice for service provider but the City and he urges the Commission to be aggressive and get the maximum annexations achievable.

Ms. McDonald says that staff will obtain the necessary information for the possible expansion of the areas discussed. She points out that if the Commission modifies the boundaries of the City's application, a renegotiation of the property tax transfer will be required pursuant to Revenue and Taxation Code Section 99.

Vice Chairman Colven opens the public hearing.

Jim Morris, the Mayor's Chief of Staff, says he understands Commissioner Hansberger's concerns about eliminating these islands as quickly as possible. He says they are a jurisdictional problem; that these areas have older developments with development standards that do not match the City's standards which presents problems; but he says that does not mean the City should not address them. Mr. Morris says that Ms. McDonald pointed out earlier that the current proposal of the City is a somewhat carefully crafted compromise. He says the City is a political body and has a number of different views on how aggressive annexation should be and how much should be done, so he says, at this point, what is before the Commission is the best compromise the City could achieve. He says that with the extension of the island annexation law, the Commission has the commitment of the Mayor's office to continue exploring the opportunities for annexations and he says the City agrees this is an issue that should be resolved. He urges that the City be allowed to get this project moving because it is connected to the Arrowhead Springs annexation which the City has been working on for a number of years. He says he would hate for the City to have to go back to the negotiation table and have to revisit this issue with the City Council and attempt to redefine or make modest changes in those island annexation boundaries.

Commissioner Hansberger discusses that he understands Mr. Morris' concerns. He explains that he is just saying that it is time to quit doing a piecemeal job and do things right and he says he thinks it is just a question of mechanics.

Commissioner Nuaimi says he appreciates the City's position and challenge. He notes that at the last hearing on this issue, the Commission heard that the City's position on the island annexations was not one of finance but one of being able to hire staff to service these new areas. He says part of his concern is taking an action today that could prevent a future island from being defined or formed, which is why he wants to be cautious about approving this proposal. He discusses that Area 1 could be expanded to Sterling Avenue, which would leave another island adjacent to Area 1 from Foothill Drive south to Marshall Blvd., between Del Rosa and Sterling Avenues that is under 150 acres. He says then there would be a third island from Marshall Blvd. south, from Del Rosa Avenue to Citrus Street. He says he is concerned that by not expanding Area 1 to Sterling Avenue now, the City might not be able to take in that second "bite" later. He says he understands that the City Council does not agree with the Commission's interpretation of 52% surrounded, but he says that tool was established to give cities the most flexible tool to use. He says Areas 4, 5 and 6 all probably can be expanded. He says that it is just a matter of timing now so that the City can absorb the impacts and hire the required staff. He asks that the Commission not do something in haste. He says he does not want to hold up the Arrowhead Springs annexation because the City is continuing with its good faith efforts. He says the Commission has an opportunity to close out these neighborhoods and relieve the County from having to service a few blocks.

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Commissioner Hansberger says the County also has a problem with staffing in most of those areas. He says he does not know why an arrangement could not be worked out by which the County, which currently serves some of those areas, could bridge some of that gap for a period of time until the City is staffed. He says that if Area 4 was expanded east to Del Rosa Avenue and south to Pacific Street, and Area 5 was expanded west to Del Rosa Avenue and all the way east to Sterling Avenue, then there would be a cleanly- served neighborhood under one jurisdiction north of Pacific Street and south of Highland Avenue.

Ms. McDonald says the acreages will have to be calculated and the issue of substantially surrounded addressed. She suggests that since the holidays are coming, and since the sunset of the island annexation provisions is no longer an issue, it might be better to continue this hearing to February to allow staff time to obtain the necessary information and discuss with the City its position. Commissioner Hansberger says he would like to do that without constraining the Arrowhead Springs annexation. Ms. McDonald responds that hearing was continued to January and that issue will move forward at the January hearing. Commissioner Hansberger asks that staff look into expanding Area 1 to Sterling Avenue, from Marshall Blvd. to Foothill Drive on the north, as well as expanding Area 4 to Del Rosa Avenue on the east and Pacific Street on the south, and to see about using the entirety of the boundary shown from Highland Avenue to Pacific Street and from Sterling Avenue to Del Rosa Avenue for Area 5. Commissioner Nuaimi says he would like to know the acreage for the area from Foothill Drive to Marshall Blvd., west of Sterling Avenue. Ms. McDonald says staff will outline the property tax revenues, population based on the census and provide some calculations of the preliminary revenues that would succeed to the City with the proposed expansions. Commissioner Hansberger comments that under the Commission's criteria, Islands 2 and 3 could probably be expanded to Citrus Avenue, but he says that would challenge the City's criteria significantly.

Commissioner Hansberger moves to continue this hearing to February 21, 2007, with direction to staff to provide the necessary information related to the possible expansion of the areas as discussed. The motion is seconded by Commissioner Nuaimi.

Vice Chairman Colven opens the public hearing and asks if there is anyone wishing to speak on this matter.

Jeanne Zeldin, a resident on Newcomb Street, which is south of Area 2, says the annexation issue has come up several times since she has lived in that area, and she says the residents do not want to be annexed. She states that she walked around to her neighbors north and south of Lynwood in her immediate area and she was the only person who received a notice of this hearing. She says former Mayor Bob Holcomb gave the residents in this area an opportunity to vote on annexation, but she says it was voted down. Ms. McDonald states that over 1,000 notices were mailed out to property owners and registered voters within the annexation areas as well as surrounding the areas and she says a legal ad also appeared in the paper. She explains that only the actual property owner receives the notice and states that if some of the people are renters and are not registered to vote, they would not receive a notice. Ms. Zeldin asks if annexation is a "done deal". Ms. McDonald explains that if this proposal moves forward in its current configuration and under the island annexation provisions, the property owners and registered voters will have no right to protest. She explains the island annexation provisions and says these islands meet the criteria that eliminates the protest proceeding. She says Ms. Zeldin is right; that in about 1985 all these areas were considered for annexation but the protest was sufficient to terminate the proposal.

Commissioner Hansberger explains that if Ms. Zeldin's area was annexed, there would be no change in her fire service because the City currently provides those services; he says that paramedic, water and sewer services will not change. He says the land use authority will change, but he explains that since the area is almost entirely developed, only the code enforcement aspect of that authority would be affected. He also points out that because the utility tax cannot be extended to the annexed areas, the only significant change would be that the City Police would provide service instead of the County Sheriff. Commissioner Nuaimi discusses that because only friendly annexations have taken place, areas are left with people in them who do not want to be annexed, leaving isolated islands that cannot be efficiently

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served. He explains that when cities annex people against their will, tax revenues are captured and they are invested back into those neighborhoods. He discusses the common myths associated with annexation and tells Ms. Zeldin that residents will not be forced to connect to city sewers; that if the animals and land uses they have are legal in the County today, those uses will be grandfathered in; and that property taxes cannot be automatically increased without a vote. Discussion follows, and Commissioner Nuaimi asks Ms. Zeldin to take this message to her neighbors and spread accurate information so they will understand that their fears are not valid. He reiterates that since people being annexed under island annexation provisions have no right to protest, none of the voter-imposed fees can be imposed on them. Ms. Zeldin asks whether the residents can do anything to prevent annexation if they are opposed. Ms. McDonald responds that they can provide input and their objection to the Commission, but she says that since the City initiated annexation under the island provisions, the Commission must approve the proposal and must do so with any right to protest if it meets the criteria specified in law. Commissioner Nuaimi notes that if any action is taken in the future for expanded areas, those property owners will be notified at a later date. He and Commissioner Cox have called for the question.

Vice Chairman Colven asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing and thanks Commissioner Nuaimi for his comments to wrap up this item. He calls for further comments. There being none, he calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: Biane. Absent: McCallon.

(It is noted that Chairman Biane returns to the hearing at 11:07 a.m. He announces, however, that he has a phone call and must leave and asks Vice Chairman Colven to continue chairing the meeting.)

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3068; AND (2) LAFCO 3068 – CITY OF LOMA LINDA ANNEXATION NO. 06-01 (PETERSEN TRACT ISLAND) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider an annexation initiated by the City of Loma Linda (hereinafter referred to as “the City”) of a totally-surrounded unincorporated island of territory encompassing approximately 28.5+/- acres. The annexation area, which is commonly known as the “Petersen Tract” is generally bordered by a combination of Mission Road and parcel lines on the south, Mountain View Avenue on the west, and parcel lines on the north and east, within the City’s northern sphere of influence. Notice of this hearing has been advertised as required by law through publication in The Sun and the Loma Linda City News, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and to landowners and registered voters within and surrounding the annexation area pursuant to State law and Commission policy.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez shows an aerial view of the area, which he says shows that the area is totally built out. As outlined in the staff report, he discusses that Government Code Section 56375(a) requires the Commission to approve the annexation of islands and that Section 56375.3 requires the Commission to approve the annexation of island territory without the ability of protest if several basic findings are made. He outlines staff’s responses to the required determinations, stating that: 1) the area is 28.5 acres so it does not exceed the 150-acre threshold; 2) the area is totally surrounded by City boundaries; 3) the area is substantially developed in that it is totally built out; 4) there is no prime agricultural land in the area; and 5) the area will benefit from annexation and all parcels within the area currently receive water service from the City through the extension of that service outside the City’s boundaries. Regarding the Commission’s additional policies related to island annexations, Mr. Martinez reports that the aspect of being substantially surrounded does not apply since the annexation area is totally surrounded by the City; the area is not within an established County Redevelopment Area, so no County consent is required; and the City conducted an outreach meeting on August 7, 2006 to discuss the issues of land use, plan for service and costs, if any, to the residents.

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Mr. Martinez says that staff believes the Commission can clearly make those determinations and the Commission, if it concurs with staff's position, is required to approve this proposal and approve it without the ability to protest from landowners and registered voters within the area.

Mr. Martinez says the staff report outlines the existing and proposed land uses, including the City's adopted pre-zoning designation, and says the staff report also outlines the City's Plan for Service, which indicates that the City will maintain and/or exceed the current service levels provided by the County. He notes that the Commission's Environmental Consultant Tom Dodson and Associates has reviewed this proposal and indicated that it is statutorily exempt from environmental review, as outlined in Mr. Dodson's letter attached to the staff report. He states that the staff recommendation is listed on page one of the staff report and includes that the Commission: 1) adopt the Statutory Exemption and direct the Clerk to file a Notice of Exemption within five days; 2) approve LAFCO 3068 as an island annexation, as defined in Government Code Section 56375.3, with the standard terms and conditions of approval; 3) waive protest proceedings, as required by Government Code Section 56375.3; and 4) adopt LAFCO Resolution No. 2949 setting forth the Commission's findings and determinations.

Vice Chairman Colven opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Nuaimi moves approval of staff recommendation, seconded by Commissioner Cox. Vice Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Nuaimi, Pearson, Williams. Noes: None. Abstain: Hansberger. Absent: Biane, Gonzales and McCallon.

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3069; AND (2) LAFCO 3069 – REORGANIZATION TO INCLUDE CITY OF LOMA LINDA ANNEXATION NO. 06-02 (BRYN MAWR ISLANDS) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider a reorganization initiated by the City of Loma Linda (hereinafter referred to as "the City") to include annexation of three totally-surrounded unincorporated islands of territory encompassing a total of approximately 57+/- acres. The reorganization area, which comprises three islands designated as Area A, Area B and Area C, is generally located between California Street and Mountain View Avenue, north and south of Barton Road, within the City's northern sphere of influence in the area commonly known as the Bryn Mawr community. Notice of this hearing has been advertised as required by law through publication in The Sun and the Loma Linda City News, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and to landowners and registered voters within and surrounding the reorganization area pursuant to State law and Commission policy.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez shows an aerial view of the reorganization area. As outlined in the staff report, he discusses that Government Code Section 56375(a) requires the Commission to approve the annexation of islands and that Section 56375.3 requires the Commission to approve the annexation of island territory without the ability of protest if several basic findings are made. He outlines staff's responses to the required determinations for each of the three areas, stating that: 1) Area A encompasses approximately 3.3+/- acres, Area B is approximately 4.7+/- acres and Area C is approximately 48.6+/-, so none of the islands exceed the 150-acre threshold; 2) all three areas are totally surrounded by City boundaries; 3) the three areas are substantially developed or developing; 4) there is no prime agricultural land in the areas; and 5) the areas will benefit from the reorganization and all parcels within the areas currently receive water service from the City through the extension of that service outside the City's boundaries and some parcels are hooked up to City sewer facilities. Regarding the Commission's additional policies related to island annexations, Mr. Martinez reports that the aspect of being substantially surrounded does not apply since the three areas are each totally surrounded by the City; the areas are not within an established County Redevelopment Area, so no County consent is required; and the City conducted an outreach meeting on

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August 8, 2006 to discuss the issues of land use, plan for service and costs, if any, to the residents. Mr. Martinez says that staff believes the Commission can clearly make those determinations for each of the areas and the Commission, if it concurs with staff's position, is required to approve this proposal and approve it without the ability to protest from landowners and registered voters within the reorganization area.

Mr. Martinez says the staff report outlines the existing and proposed land uses, including the City's adopted pre-zoning designations. He points out corrections that need to be made to the chart on page 5 of the staff report for the City's pre-zone land use designations as follows: Area A should be Planned Community (PC); Area B should be General Business (C-2) and Multiple-Family Residence (R-3), and Planned Community (PC) should be deleted for Area C.

Mr. Martinez says the staff report outlines the City's Plan for Service, which indicates that the City will maintain and/or exceed the current service levels provided by the County. He points out that the City's Plan for Service did not acknowledge that there will be a transfer of streetlights from County Service Area SL-1 and he says a condition has been included in the draft resolution identifying the transfer process. He says the staff report identifies that ten lights will be transferred; that Southern California Edison Company has verified that there are eight lights that will be transferred and that the property tax transfer from County Service Area SL-1 to the City will cover the cost of the lights. He notes that the Commission's Environmental Consultant Tom Dodson and Associates has reviewed this proposal and indicated that it is statutorily exempt from environmental review, as outlined in Mr. Dodson's letter attached to the staff report. Mr. Martinez states that the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: 1) adopt the Statutory Exemption and direct the Clerk to file a Notice of Exemption within five days; 2) approve LAFCO 3069 as island annexations, as defined in Government Code Section 56375.3, with the condition related to the transfer of streetlights to the City and the standard terms and conditions of approval; 3) waive protest proceedings, as required by Government Code Section 56375.3; and 4) adopt LAFCO Resolution No. 2950 setting forth the Commission's findings and determinations.

Vice Chairman Colven opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Williams moves approval of staff recommendation, seconded by Commissioner Cox. Vice Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Nuaimi, Pearson, Williams. Noes: None. Abstain: Hansberger. Absent: Biane, Gonzales and McCallon.

**PENDING LEGISLATION**

Ms. McDonald states there is no legislative report. She says the new session will begin in January.

**EXECUTIVE OFFICER'S ORAL REPORT**

Ms. McDonald reports that she will attend a meeting tomorrow in Joshua Tree to discuss the possibility of forming a community services district in that area. She reports that she will fly to the Colorado River on Friday to meet with the Indian Tribes regarding the County Fire Reorganization to see if they will consent to an overlay of tribal properties so that the boundaries will not have to be modified. She notes that the City of Hesperia withdrew its three island annexations, with the understanding that it may be required to address those same islands in the future when a development-related application is submitted. She says the Commission will begin looking at the municipal service reviews for the North Desert and begin the discussion of the consolidation of the Baldy Mesa and Victor Valley Water Districts in January or February.

Ms. McDonald announces that the December hearing has been cancelled and she wishes the Commissioners a happy Thanksgiving and Christmas.



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Commissioner Pearson inquires about any action on the Helendale Community Services District. Ms. McDonald responds that no action can be taken by staff until the election has been certified. She reports that it is her understanding that it has been formed with 15 votes over the majority needed.

Vice Chairman Colven inquires about the status of the Phelan Pinon Hills Community Services District proposal. Ms. McDonald says staff is processing it and needs additional information from the County regarding financing issues. She says that in order for the formation to be on the November ballot, the proposal must be approved by June. She says staff is trying to work to assure that the service reviews move forward because she says there are very important issues in the North Desert that need to be resolved.

**COMMISSIONER COMMENTS**

Vice Chairman Colven thanks Commissioner Nuaimi for his earlier comments regarding the myths associated with annexation.

**COMMENTS FROM THE PUBLIC**

Vice Chairman Colven calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS  
ADJOURNED AT 11:22 A.M.**

**ATTEST:**

\_\_\_\_\_  
**DEBBY CHAMBERLIN**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

\_\_\_\_\_  
**PAUL BIANE, Chairman**